

REMARKS

Claims 1, 4, 5, and 8-11 are pending in the application. In the non-final Office Action of October 24, 2007, the Examiner made the following disposition:

- A.) Rejected claims 1, 4, 5, and 8-11 under 35 U.S.C. 112, first paragraph.
- B.) Rejected claims 1, 5, and 8-11 under 35 U.S.C. §103(a) as being unpatentable over *Nakane et al.* (EP 0895296) in view of *Chaloner-Gill* in view of *Bullock, et al.* in view of *Gozdz et al.*
- C.) Rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Nakane et al.* in view of *Chaloner-Gill* in view of *Bullock* in view of *Gozdz et al.* and further in view of *Wedlake*.

Applicants respectfully traverse the rejections and address the Examiner's disposition below. Claims 1 and 5 have been amended.

- A.) Rejection of claims 1, 4, 5, and 8-11 under 35 U.S.C. 112, first paragraph:
Applicants respectfully disagree with the rejection.

The Examiner argues that the specification does not describe that the battery can have both 1) an outer covering member that includes a gas absorbable material and 2) first and second gas absorbable members. Applicants disagree. The Examiner cites to illustrative example 4 in the specification in which a gas absorbing layer in the outer covering member is present instead of a gas absorbable member. See, specification, page 29. However, illustrative example 4 is merely an illustrative example that is described in the specification.

At other locations in the specification, the written description teaches that the battery may contain gas absorbable material in both an outer covering member as well as in gas absorbable members. See, for example, specification page 17, line 2 – page 18, line 19. For example, this cited text describes that gas absorbable material can be located in gas absorbable members as well as in a film layer of the outer covering member:

The gas absorbable material may be contained in one film layer, positioned in proximity to the battery, of the film layers constituting the laminating film.

Specification, page 18, lines 15-17. In this text from page 17, line 2 – page 18, line 19, the written description does not state that these various locations of gas absorbable material are mutually exclusive.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

B.) Rejection of claims 1, 5, and 8-11 under 35 U.S.C. §103(a) as being unpatentable over Nakane et al. (EP 0895296) in view of Chaloner-Gill in view of Bullock, et al. in view of Gozdz et al.:

Applicants respectfully disagree with the rejection.

Referring to Applicants' Figure 1 as an illustrative example, claim 1, as amended, claims an outer covering member 2 including a laminated film having a gas absorbable material and resin material interposed between an outermost layer of said outer covering member 2 and a battery element 1. The outer covering member 2 has a first outer covering member and a second outer covering member, the first outer covering member and the second outer covering member being a single common piece of material. The first outer covering member has a recessed portion accommodating the battery element 1. The second outer covering member extending from one side of the first outer covering member and folded onto the first outer covering member covering the battery element and the recessed portion.

The battery element 1 is contained in the outer covering member and heat sealed therein. The battery element has a first end at which first wound edges are located and a second end, which is opposite the first end, at which second wound edges are located.

A first gas absorbable member 5 is positioned at the first end of the battery element adjacent the first wound edges of the battery element and positioned between the battery element and the outer covering member. A second gas absorbable member 6 is positioned at the second end of the battery element adjacent the second wound edges of the battery element and positioned between the battery element and the outer covering member. The first and second gas absorbable members are not part of the laminated film nor the gas absorbable material and resin material. The first and second gas absorbable members are each a continuous solid plate-like member and each comprise a gas absorbable material powder hardened within a resin material. (See, e.g., specification at page 14, lines 11-15 and page 28, lines 1-18, which describes that gas absorbable members include gas absorbable material hardened in resin.)

This is clearly unlike *Nakane* in view of *Chaloner-Gill* in view of *Bullock, et al.* in view of *Gozdz et al.*, which fails to disclose or suggest Applicants' claimed first and second plate-like gas absorbable members positioned between an outer covering member and a battery element. The Examiner argues that *Nakane's* inorganic oxide fine powder teaches or suggest Applicants' claimed first and second gas absorbable members. Applicants disagree. Applicants' claimed first and second gas absorbable members are each continuous plate-like solid members that are

positioned between a battery element and an outer covering member.

As described in Applicants' specification, Applicants' plate-like members beneficially provide improved volume energy efficiency compared to encasing a battery element with a gas absorbable material. Specification, page 17, lines 2-12. Thus, Applicants' plate-like members provide improved volume energy efficiency compared to *Nakane*.

Further, contrary to the Examiner's assertion, *Nakane* fails to inherently teach or even suggest that *Nakane's* gas absorbing powder should be hardened in a resin to form a plate-like member. *Nakane* teaches a fine powder that is added to various elements, such as an electrolyte, or positioned in a gap beneath a covering. *Nakane* [0031]. The Examiner argues that *Nakane* teaches that its "powder may be present in the space between the battery in the case, but may also be present as an electrolyte or additive." *Office Action of 10/24/2007*, page 4. This teaching fails to relate to forming a plate-like member, or any particular shape member. Further, nowhere does *Nakane* suggest hardening its powder in a resin. This is simply not discussed in *Nakane*. Applicants submit that the Examiner has used impermissible hindsight after having read Applicants' claims to allege that it would have been obvious to harden *Nakane's* powder in a resin to form a plate-like member. This is simply a great departure from what *Nakane* teaches or suggests. Further, claimed subject matter is clearly not inherent in *Nakane* as there are many ways in which *Nakane's* powder may be disposed or suspended within its battery, such as in an electrolyte as the Examiner correctly states.

Chaloner-Gill, *Bullock*, and *Gozdz* also fail to disclose or suggest Applicants' claimed first and second gas absorbable members that are located between a battery element and an outer covering member. For at least this reason, the cited references fail to disclose or suggest claim 1.

Claims 5 and 8-11 depend directly or indirectly from claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

C.) Rejection of claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Nakane et al.* in view of *Chaloner-Gill* in view of *Bullock* in view of *Gozdz et al.* and further in view of *Wedlake*:

Applicants respectfully disagree with the rejection.

Applicants' independent claim 1 is allowable over *Nakane* in view of *Chaloner-Gill* in view of *Bullock, et al.* in view of *Gozdz, et al.* as discussed above. *Wedlake* still fails to disclose

or suggest Applicants' claimed first and second gas absorbable members. Therefore, *Nakane* in view of *Chaloner-Gill* in view of *Bullock, et al.* in view of *Gozdz, et al.* and further in view of *Wedlake* still fails to disclose or suggest claim 1.

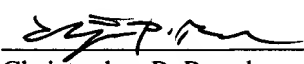
Claim 4 depends directly or indirectly from claim 1 and is therefore allowable for at least the same reasons that claim 1 is allowable.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that claims 1, 4, 5, and 8-11 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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